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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,513	10/26/2005	David B Smathers	020324 223P2	9964
33805 7590 08/14/2009 WEGMAN, HESSLER & VANDERBURG 6055 ROCKSIDE WOODS BOULEVARD SUITE 200 CLEVELAND, OH 44131				
EXAMINER YANG, JIE				
ART UNIT		PAPER NUMBER		
1793				
MAIL DATE		DELIVERY MODE		
08/14/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/527,513

Applicant(s)

SMATHERS ET AL.

Examiner

JIE YANG

Art Unit

1793

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 August 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____
Claim(s) objected to: 16 and 18-20.
Claim(s) rejected: 15 and 21.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Roy King/
Supervisory Patent Examiner, Art Unit 1793

/JieYang/

Claims 1-14 and 17 are cancelled, claim 21 is amended, and claims 15, 16, and 18-21 are pending in application. This is to acknowledge the receipt of "Rule 132 Declaration" and "amendment after final" filed on 8/10/2009.

Continuation of 5. Applicant's reply has overcome the following rejection(s):

The previous rejection of claims 15 and 18 under 35 U.S.C. 112 second paragraph as insufficient antecedent basis is withdrawn in view of the applicants' "Rule 132 Declaration" and "amendment after final" filed on 8/10/2009.

The previous rejection of claims 16, 18-20 under 35 U.S.C. 103 (a) over Yamakawa et al (JP 11139877 A, thereafter JP'877) in view of Komatsu (US 6,242,374 B1, thereafter US'374) is withdrawn in view of the applicants' "Rule 132 Declaration" and "amendment after final" filed on 8/10/2009.

Continuation of 7. The "Rule 132 Declaration" is partially persuasive. Claims 16 and 18-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Rejection of Claims 15 and 21 under 35 U.S.C. 103 (a) over Yamakawa et al (JP 11139877 A, thereafter JP'877) in view of Komatsu (US 6,242,374 B1, thereafter US'374) is still maintained because there is no specific limitation of how much MgO and elemental W in the instant claims. Therefore, the hygroscopic property of MgO and density of W as argued in the "Rule 132 Declaration" filed on 8/10/2009 are not necessary having effect on the sintered alloy as recited in the instant claims. Detail rejection for claims 15 and 21 can refer to the previous office action marked 5/7/2009.

Continuation on 11. does NOT place the application in condition for allowance because there is no specific limitation how much MgO and elemental W in the instant claims 15 and 21. Therefore, the hygroscopic property of MgO and density of W as argued in the "Rule 132 Declaration" filed on 8/10/2009 are not necessary to affect the sintered alloy as recited in the instant claims. Claims 16 and 18-20 are objected to as being dependent upon a rejected base claim.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jie Yang whose telephone number is 571-2701884. The examiner can normally be reached on IFP.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on 571-2721244.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.